IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 196 OF 2006
with
CHAMBER SUMMONS NO. 349 OF 2006
with
CHAMBER SUMMONS NO. 358 OF 2006
with
CHAMBER SUMMONS NO. 360 OF 2006
with
CHAMBER SUMMONS NO. 361 OF 2006
with
CHAMBER SUMMONS NO. 362 OF 2006
with
CHAMBER SUMMONS Nos. 363 OF 2006
with
CHAMBER SUMMONS NO. 18 OF 2007
in
WRIT PETITION (PIL) NO. 87 OF 2006

Bombay Environmental Action Group & Anr. ...Petitioners

Versus

The State of Maharashtra and others ... Respondents

And

M/s. Goodwill Developers
Sai Ganesh Coop Society
M/s Bhuvan Developers
M/s Dharati Corporation
M/s Alpha Developers
Palak Enterprises
M/s Shivshradha Developers ... Applicants

Mr. V.M. Thorat for the applicants in support.

Mr. N.H. Seervai, Senior Advocate, with Mr. Gautam Patel, and Mr Jagtiyani instructed by M/s. M.V. Jayakar & Company, for the petitioners to show cause.

Mr. R.M. Kadam, Advocate General, with Mr. K.R. Belosay, Government Pleader, for respondent Nos.1,5, 5A and 9 to show cause.

Mr. Rajiv Chavan for respondent No.2 to show cause.

Mr. R.V. Govilkar for respondent No.3 to show cause.

Mr. K.K. Singhvi, Senior Advocate, with Mrs. Shobha Ajitkumar, for respondent No.4 to show cause.

CORAM: **H.L. GOKHALE, Ag. C.J.,** &
V.M. KANADE, J.

DATE: **JANUARY 24, 2007**.

P.C.

All these Chamber Summons are taken out by the societies/developers of societies which are aggrieved by the order passed by the Division Bench in PIL 87 of 2004 dated 6th October 2005 as well as the stop work notices issued by the planning authority. The parties of these cases are as follows:

C.S. no	Date of allotment of plot to the society	date on which plan was sanctioned	date of stop work notice
196/06	23.9.2005	31.10.2005	31.5.2006
349/06	1.10.2003	15.3.2005	15.4.2006
358/06	12.6.2004	27.12.2005	12.5.2006
360/06	27.8.2003	26.10.2005	12.5.2006
361/06	Nov. 2004	7.4.2005	12.5.2006
362/06	July 2003	Dec. 2004	12.5.2006
363/06	Oct. 2003	Oct. 2003	27.5.2006
18/07	Dec. 2003	January 2005	17.12.2006

2. From amongst all these matters as far as first two societies i.e. Chamber Summons Nos. 196 and 349 of 2006 are concerned the planning authority is the Navi Mumbai Municipal Corporation. As far as the others concerned they are situated at village Kamothe which falls in CIDCO area and not within the Navi Mumbai Municipal Corporation limits. The case of the applicants is that their buildings were permitted by the concerned planning authority and on the date on which this court passed the order dated 6th October 2005 neither the Navi Mumbai Municipal Corporation nor CIDCO were party to the petition. It is therefore, submitted that the applicants should not be made to suffer

the injunction which this court has passed.

3. On the other hand it is submitted on behalf of the petitioners that the order passed by this court dated 6th October 2005 was an order to protect mangroves not merely in the area covering Navi Mumbai but it was specifically to protect mangroves in the entire State of Maharashtra. A reference is also made in paragraph 8(i) of that order which clearly states that there shall be a total freeze on the destruction and cutting of mangroves in the entire State of Maharashtra . In fact if we look at the entire order it clearly refers to the coastal area of the entire State including its creek and mangroves abutting thereof. The submission of the petitioners is that though the Navi Mumbai Municipal Corporation was joined subsequently the order was clearly understood to have passed with respect to coastal area in the State. The State was expected to inform all the bodies which were concerned and the order passed by the court ought not to be permitted to be defeated on such ground. As far as the various buildings which are being put up are concerned it is submitted that the construction in the cases of three out of eight matters i.e. in Chamber Summons Nos 196 of 2006, 358 of 2006 and 360 of 2006 have been started subsequent to the order passed on 6th October 2005. There is a serious

dispute as to whether there were mangroves in those areas and it is difficult to arrive at a prima facie determination at this stage. Stop work notices have been issued long back and time is taken to take out Chamber Summons by the applicants concerned. In the circumstances it will not be proper to vacate the injunction as far as these societies are concerned as prayed by them.

4. We accordingly permit the applicants to intervene in the petition. Parties may file their reply and rejoinder if any. However, all the Chamber Summons will be heard along with the main petition as and when it is heard. All the Chamber Summons are accordingly disposed of.

ACTING CHIEF JUSTICE

V.M. KANADE, J.